



DEAN ANDAL
Member, Board of Equalization

Agriculture Update

Super Williamson Act

In 1998, legislation known as the "Super Williamson Act" was signed into law. The Act allows landowners to petition county boards of supervisors to create Farmland Security Zones. This enables landowners who have Williamson Act contracts to rescind their traditional 10-year rolling contracts and simultaneously enter into 20-year rolling contracts to designate the property Farmland Security Zones. In exchange, the property will be assessed at 65 percent of the factored base year value (Prop 13 value) or the restricted value whichever is less. Specifically, the Act provides that:

➡ In order to qualify for a Farmland Security Zone contract, the land must be predominantly prime farmland as defined in Section 51201 of the Government Code or be included in the Important Farmland Series Maps.

➡ Any land and living improvements included in a contract, as specified under the provisions of the Act, shall be exempt from any benefit assessment that does not directly benefit the land. Any per parcel special tax shall be levied at a reduced rate, if the tax is levied after the effective date of August 24, 1998.

➡ Local agency formation commissions are prohibited from any annexation of land under a Farmland Security Zone contract: 1) that would result in the annexation of such land to a city, including land in a special district that provides sewers, non-agricultural water, or streets and roads that do not directly benefit land uses under the contract; or 2) if the landowner does not consent to the annexation.



➡ Farmland Security Zones are prohibited from being established within a city's sphere of influence, unless the city has approved such an

action by resolution.

➡ School districts are prohibited from acquiring any land in a Farmland Security Zone.

➡ The following counties have adopted the Super Williamson Act: Colusa, El Dorado, Fresno, Kern, Kings, Lassen, Madera, Monterey, Plumas, San Joaquin, Santa Barbara, Santa Cruz, Sierra, Tehama, Tulare, Ventura, and Yolo. If your county has not adopted the Super Williamson Act you are urged to contact your County Supervisor.

Fee Reimbursement Awarded

A previous *Agriculture Update* reported on a case won by Ms. Susan Tylock, President and owner of Caslin Distributing. Ms. Tylock was successful in her appeal to the Board of Equalization where it was determined that the sale of thermometers placed in a truck delivering perishable goods out-of-state was a sale for resale in interstate commerce, and therefore exempt from sales tax.

After incurring thousands of dollars in accounting and attorney fees in order to win her six-year battle with the Board, Ms. Tylock filed a claim for reimbursement of these fees.

Current law provides that every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the Board if:

- (1) the fee reimbursement claim was filed within one year of the decision;
- (2) the Board finds that the action taken was not substantially justified; and
- (3) the expenses related to the hearing before the Board were incurred after the date the petition was filed.

The law also limits the fee reimbursement to \$75 per hour.

Successful fee reimbursement claims have been rare in the seven years since this law was enacted. Before Ms. Tylock, the Board had awarded fee reimbursements to only two other taxpayer-

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Board Allows Claim for Refund on Bad Debt Deductions

In December of last year, the Board decided in favor of WFS Financial, Inc. (WFS) who had filed a claim for refund for bad debt deductions on contract defaults.

WFS purchased finance contracts involving installment sales agreements for vehicles from various vehicle dealers. The dealers paid the sales tax on the actual sales price of the cars. The dealers then immediately assigned the sales agreements to WFS without recourse.

Under the sales agreements, purchasers continued to pay sales tax reimbursement as part of their installment payments to WFS. If the purchasers defaulted on their finance contracts, WFS had the right to repossess the vehicles.

In most cases, when the purchasers defaulted, WFS repossessed and resold the vehicles. After WFS applied all proceeds from the resale (and other collection efforts) to the amounts still owed by the purchasers, unpaid balances remained. After deeming these balances to be uncollectable, WFS wrote off the amounts as bad debt for income tax purposes.

The Board's audit staff denied the claim for refund on the basis that WFS was neither the retailer who sold the property, nor a successor to the business of the original retailer.

The Board determined that, under Regulation 1642, WFS was a successor in that: 1) they paid full consideration for receivables; 2) they had rep-

resentatives present on the dealers' premises (or were immediately available by phone or computer connection) at the time the vehicles were sold; and 3) the dealers' assignments to WFS were part of the same transaction and were contemporaneous with the execution of the sales agreements. As such, WFS qualified for a bad debt deduction.

The written opinion of the Board would clearly apply to similar financing arrangements involving vehicles used for agricultural purposes. A logical extension *may* apply to similar financing arrangements for other agricultural equipment.

Recently Introduced 2001-2002 Legislation

AB 7 (Cardoza) – provides a sales and use tax exemption for farm tractors, used in agricultural operations, that are only incidentally operated on a highway.

AB 13 (Florez) – enacts the "San Joaquin Valley Economic Development Corridor Act of 2001" to establish a program to enhance economic development within certain boundaries. Also provides a sales & use tax exemption for farm equip-

ment purchased within those boundaries.

AB 37 (Strickland) – provides a sales and use tax exemption for motor vehicle and diesel fuel.

AB 206 (Wyland) – increases the low-value property tax exemption from \$5,000 to \$10,000 (includes an annual inflation factor).

SB 198 (Chesbro) – extends the property tax welfare exemption for nat-

ural resources and open-space lands for ten years (from 2002 to the 2012 lien date).

SB 219 (Scott) – extends the deadline for filing a property tax assessment appeal from September 15 to November 30 for those who are not notified in writing of the assessed value of their property before July 1.

REIMBURSEMENT

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ers. Ms. Tylock is just the third taxpayer to prevail!

The actions in her case were unusual, and clearly not substantially justifiable. In 1996, an appeals conference holder determined that the thermometers were sold for resale in interstate commerce and therefore not subject to tax. Shortly thereafter, the Board itself heard a similar case that was decided primarily in favor of the taxpayer, but on different grounds. The Board staff interpreted that decision to mean that the

thermometers were not sold for resale in interstate commerce and reversed the decision in Ms. Tylock's case. She appealed to the Board and after a long, drawn-out battle, ultimately won based on the same reasoning originally determined by the appeals conference holder.

Ms. Tylock then came back to the Board of Equalization and asked that she be reimbursed for the amount she spent to fight these unreasonable actions. The Board found that Ms. Tylock was entitled to reimbursement for the hours billed by her accountants and attorneys. However, the law limited the reimbursement to just \$75 per hour; as such, Ms. Tylock

was only able to recoup a little over 40% of her total costs. But, a win is still a win. Congratulations on another hard-fought victory!



**Another Win for
Susan Tylock**